

03-931 FLORIDA v. NIXON

Ruling below: Sup. Ct. Florida, 857 So.2d 172

QUESTION PRESENTED

In a capital murder case, the Florida Supreme Court:

(A) applied an incorrect standard, contrary to *Strickland v. Washington*, 466 U.S. 668 (1984), *Bell v. Cone*, 535 U.S. 685 (2002) and *Roe v. Flores-Ortega*, 120 S.Ct. 1029 (2000), by finding defense counsel ineffective per se under *United States v. Cronin*, 466 U.S. 648 (1984) despite having found counsel's strategy not to contest overwhelming evidence of guilt but to vigorously contest the sentence in the defendant's best interest and reasonably calculated to avoid a death sentence, and

(B) erred in concluding that *Boykin v. Alabama*, 395 U.S. 238 (1969) prohibited trial counsel from adopting a strategy, after fully informing his client, without objection, not to contest overwhelming evidence of guilt to protect the best interest of his client in contesting the appropriateness of imposing the death penalty.

CERT. GRANTED: 3/1/04